B. FAILURE TO COMPLY PENALTY CHARGE

If a party fails to comply with the BPA-TBL's curtailment, redispatch, or load shedding orders, the party will be assessed the Failure to Comply Penalty Charge.

Parties who are unable to comply with a curtailment, load shedding, or redispatch order due to a force majeure on their system will not be subject to this penalty provided that they immediately notify the BPA-TBL of the situation upon occurrence of the force majeure.

1. RATE

The rate shall be the highest of:

a.   100 mills per kilowatthour;

b.   any costs incurred by the BPA-TBL in order to manage the reliability of the FCRTS due to the failure to comply;

c.   an hourly market price index plus 10%.

The hourly market price index will be the larger of the California ISO Ex-Post Supplemental Energy Price or the Dow Jones Mid-Columbia Firm Index Price for the hour(s) when the failure to comply occurred.

2. BILLING FACTORS

The Billing Factor shall be the kilowatthours that were not curtailed or redispatched in any of the following situations:

a.   Failure to shed load when <u>directed to do so by BPA-TBL in accordance</u> with the Load Shedding provisions of the Open Transmission Tariff or any other applicable agreement between the parties. This includes failure to <u>shed load pursuant to such orders</u> within the time period specified by the North American Electric Reliability Council (NERC), Western Electricity Coordinating Council (WECC), or Northwest Power Pool (NWPP) criteria.

b.   Failure of a generator in the BPA Control Area or which is directly interconnected to the FCRTS to change generation levels when directed to do so by the BPA-TBL. This includes failure to <u>change generation levels pursuant to such orders</u> within the time period specified by NERC, WECC, or NWPP criteria.

c.   Failure to curtail <u>or redispatch a reservation or</u> schedule <u>or failure to curtail or redispatch actual transmission use of the Contract or Service Agreement when directed to do so by the BPA-TBL. This includes failure to curtail or redispatch pursuant to such scheduling protocols or orders</u> within the time period specified by NERC, WECC, or NWPP criteria.